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### Remarks

The Office Action mailed on April 6, 2006 has been reviewed and the Examiner's comments have been carefully considered. Claims 79-81 and 83-88 are pending. Claims 79-81 stand rejected and Claim 88 has been allowed.

The written description is amended to repeat the meaning of the terms "substantially non-reactive" as already disclosed on page 1, lines 9-15 of the specification as originally filed. No new matter has been added.

Independent claim 79 is amended for clarity to further recite that the working fluid is non-detersive. Support for the amendment can be found in several occurrences including page 11, lines 2-18 of the specification as originally filed.

The Office Action dated April 6, 2006 states that "...the examiner does not have the necessary equipment for measuring reactivity, solubility, charge or KB values, and therefore, the burden is on the applicant to demonstrate which of the numerous claimed function properties are not met." The examiner states that that should the applicant determine that any of the compounds recited by the references do not meet the functional limitations of the working fluid, the examiner will remove the rejections made in the Office Action.

Applicants hereby submit a Declaration under 37 CFR §1.132 of Mr. Tremitchell Wright, an inventor of the present application. As detailed, Mr. Wright analyzes the disclosure contained in each of the cited references presented in the Office Action dated April 6, 2006 as the references relate to the claims of the pending application. The Declaration includes Exhibit A which summarizes his findings regarding the properties of the compositions disclosed in each of the cited references. Exhibit B includes information provided by literature which can be used to calculate the Kauri-Butanol (KB) values of compounds for compounds having a Hildebrand solubility parameter greater than 15.6, and Exhibit C displays an example table of properties, including the KB value, for commonly used solvents having a Hildebrand solubility parameter less than 15.6, and which can be found in published literature.

### I. Claim Rejections Under 35 USC §112

Claims 79-81 and 83-87 are rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement.

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The USPTO has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention. In re Wright, 999 F.2d 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993). A specification disclosure which contains a teaching of the manner and process of making and using an invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as being in compliance with the enablement requirement of 35 U.S.C. 112, first paragraph, unless there is a sufficient reason to doubt the objective truth of the statements contained therein which must be relied on for enabling support.

A prima facie case of lack of enablement requires that the examiner provide specific technical reasons as part of specific findings of fact, supported by the evidence, and then drawing conclusions based on these findings of fact. See MPEP § 2164.04.

In the Official Action dated April 6, 2006, the Examiner rejected claims 79-81 and 83-87 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

The Examiner gave the following reasons for the § 112, first paragraph rejection:

1. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains or with which it is most nearly connected, to make and /or use the invention.
2. The applicants' specification does not describe the invention with sufficient detail or examples for one of ordinary skill in the art to determine which if any solvents meet the applicants' claimed functional description of the invention.
3. It is possible that one or more of the millions of compounds encompassed by perfluorocarbons, hydrofluoroethers, fluorinated hydrocarbons, and fluoroinerts, would meet the applicants' functional limitations, such testing would require undo experimentation on the part of the examiner or any other who is of ordinary skill in the art of chemistry.

Applicants hereby submit that the properties which define the wash liquor of the present invention are definite. Applicants define a "working fluid" with clear and unequivocal language: a working fluid is "a fluid that possesses no deterative properties," whereas a compound or fluid that has "deterative action" is one "that is required to remove particulates, film soils, and stains or that assist in the removal of particulates, film soils, and stains." See Specification at page 11,

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lines 2-4, 8-10, and 13-18.

Applicants unambiguously define “substantially non-reactive” as it modifies a working fluid and components thereof to mean “a non-solvent, non-deterative fluid that under ordinary or normal washing conditions, *e.g.*, at pressures of -1 to 50 atmospheres and temperatures of from about 10 °C to about 45° C, does not appreciably react with fibers of the fabric load being cleaned, the stains and soils on the fabric load, or the washing additives combined with the component to form the wash liquor.” See Specification at page 1, lines 9-15. Furthermore, Applicants characterize cleaning solvents as being different from the working fluid of their invention: “a solvent that is different from the IWE [working fluid] in that its sole purpose is to provide deterative properties not met by the performance enhancers will hereinafter be referred to as a co-solvent.” Id. at page 11, lines 13-15.

Applicants submit that a person of ordinary skill in the dry-cleaning art would readily understand that this definition indicates that a non-reactive working fluid does not react with fabric fibers nor with stains and soils on the fabric. Therefore, a non-reactive working fluid, by definition, cannot perform any process that disrupts the chemical interaction between stains and soils on fabric fibers. One skilled in the art will know the meaning of the claimed terms and will know how to determine whether a solvent will meet applicant’s claimed properties. Millions of dry-cleaning compounds which fall outside the defined scope of the claims are available for use in the industry, including the reactive, deterative conventional dry-cleaning solvents which have been used for several years.

The Office Action states that should the Applicants determine that the compounds recited by the references do not meet the functional limitations of the working fluid, the examiner will remove the rejections. Applicants hereby submit the Declaration, under 37 CFR §1.132, of Mr. Tremitchell Wright, under which he has declared that none of the cited references disclose a wash liquor which meets the claimed properties of the pending application. The Declaration and attached Exhibits also makes clear that one of ordinary skill in the art can determine, via experience, measurement, calculation or published information, whether a compound falls within each the properties and well-known chemical definitions of the claimed invention. That is, one of ordinary skill in the art can determine whether a compound meets the chemical attributes of a “working fluid” having the limitations of being substantially non-reactive, non-aqueous, non-oleophilic, apolar, and having a KB value less than or equal to 30.

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Applicants' therefore submit that the specification of the pending patent application enables one skilled in the art how to make and use the invention within the scope set forth by claims 79-81 and 83-87. In addition, the Examiner agreed with the Applicants' representative during the interview conducted on October 27, 2005 that the Applicants' specification included adequate support to overcome the Examiner's initial conclusion that the Applicants' specification lacked enablement. An Interview Summary was provided in the Evidence Appendix of an Appeal Brief which preceded this Office Action of April 6, 2006.

Applicants respectfully request withdrawal of the rejection of claims 79-81 and 83-87 under 35 USC §112, first paragraph.

## **II. Claim Rejections Under 35 USC §102(b)**

Claims 79-81 and 83-87 stand rejected under 35 USC § 102(b) as being unpatentable over U.S. Patent No. 5,093,031 (Login, et al.), U.S. Patent No. 5,294,644 (Login, et al.), U.S. Patent No. 5,269,958 (de Jager, et al.), U.S. Patent No. 5,427,858 ( Nakamura, et al.), U.S. Patent No. 5,505,985 ( Nakamura, et al.), and U.S. Patent No. 5,676,005 (Balliett, et al.).

Applicants submit that none of the cited references disclose a wash liquor as recited in claims 79-81 and 83-87. Applicants wish to direct the USPTO to the Declaration of Mr. Tremitchell Wright and the Table of Exhibit A created by Mr. Wright and which summarizes the properties of the cited references.

### **a. Claims 79-81 and 83-87 are not anticipated by U.S. Patent Nos. 5,093,031 and 5,294,644, (Login, et al.) under 35 USC §102(b).**

Claims 79-81 and 83-87 are rejected under 35 USC §102(b), as being anticipated by US 5,093,031 and US 5,294,644.

The two asserted Login et al. references are based upon the same specification, and therefore, the Login references are hereby discussed jointly for disclosure of these references with respect to the rejected claims.

The Login et al. references are directed to N-hydrocarbon substituted lactams that act as surfactants. (2:22-34). In the context of dry cleaning applications, the Login et al. references disclose dry cleaning solvents as falling into two categories, the petroleum solvents and the

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halogenated solvents, which include Stoddard solvent, carbon tetrachloride, trichloroethylene, perchloroethylene, fluorinated hydrocarbons, 104F solvent, etc (11:23-30). In this regard, the Login et al. references disclose that these solvents are satisfactory for the removal of fatty type soils, but not water soluble soils and stains. (11: 30-32) In this regard, Login et al. references disclose use of these solvent soluble lactams in conjunction with the aforementioned solvents to remove many water soluble spots and stains that would not be otherwise removed using the solvents alone. (11:30-35).

In the Login, et al. references, the halogenated compounds conventionally used in dry cleaning formulations are specifically disclosed to act as solvents to remove certain water insoluble spots and stains. (11:30-33). Furthermore, the disclosed lactams are described as surfactants, as a water soluble spot and stain remover, and as a deodorizer (11:30-44).

All of the disclosed compounds have a KB greater than 30. None of the disclosed compounds have a perfume. Therefore none of the compounds disclosed, i.e. the halogenated compounds, the lactams, and other compounds disclosed by the Login et al. references qualify as a working fluid as recited in independent claim 79.

In addition, the Login et al. references do not disclose a fluorine-containing compound suitable for use as a working fluid as recited in claim 81, or a liquid working fluid as recited in claim 83.

The Login et al. references do not disclose specific and measurable properties of compounds with respect to oil solvency, vapor pressure, or flash point as recited in claim 84.

**b. Claims 79-81 and 83-87 are not anticipated by U.S. Patent No. 5,269,958 (de Jager) under 35 USC §102(b).**

The De Jager reference is directed to self-pressurized aerosol spot dry cleaning compositions. (4:43-45). The reference discloses polar compositions which include a 34-35% water-soluble propellant in the form of dimethyl ether; water; a cosolvent; a particulate absorbent; dimethoxymethane and minor amounts of additives such as perfumes. (4:4-3 9). The de Jager reference also discloses fluorine-containing compounds such as difluoromethane and monochlorodifluoromethane as suitable cleaning solvents for removing fat and grease stains. (1:55-59).

In addition de Jager does not disclose specific chemical properties of any compounds

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with respect to surface tension, oil solvency, vapor pressure, or flash point as recited in claim 84. Also, de Jager does not disclose a washing additive which comprises ozone, an ultraviolet light absorber, or a deodorizer as recited in claims 86 and 87.

Applicants respectfully request that the rejection of claims 79-81 and 83-87, as being anticipated by De Jager, be withdrawn.

**c. Claims 79-81 and 83-87 are not anticipated by U.S. Patent Nos. 5427858 and 5505985 (Nakamura, et al.) under 35 USC §102(b).**

The two asserted Nakamura et al. references are based upon the same specification; therefore, the Nakamura et al. references will be discussed jointly for disclosure of the relevant prior art with respect to the limitations of the claims.

The Nakamura et al. references are directed to methods of providing a effective protection method for film-coating an organic electroluminescence device, wherein the final product displays a long structural life. (1:25-67 and 2:1-23). The references disclose using fluorine-containing compounds as components of film deposition processes to provide a protective film layer onto the devices. (8:45-54) The references disclose that the protective layer is formed according to a copolymerization process that uses peroxide compounds to serve as radical initiator compounds in the copolymerization reaction. (8:4-36).

The compounds of the Nakamura et al. references do not qualify as a working fluid which "carries" a washing additive. The Nakamura et al. references do not disclose a fragrance or any specific compounds that can serve as a fragrance. Thus, the Nakamura et al. references fail to disclose or suggest a wash liquor as recited in claim 79.

In addition, the Nakamura et al. references do not disclose a wash liquor composition further comprising at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, wherein the mixture is sufficiently stable for a fabric washing application, as recited in claim 80.

In addition, the Nakamura et al. references do not disclose a fluorine-containing compound as being suitable for use as a working fluid, and do not disclose a liquid working fluid as recited in claim 83.

In addition, the Nakamura et al. references do not disclose specific chemical properties of any compounds with respect to oil solvency, vapor pressure, or flash point as recited in claim 84,

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and do not disclose a fluorinated compound as being suitable for Applicants' working fluid as recited in claim 85.

Applicants respectfully request that the rejection of claims 79-81 and 83-87, as being anticipated by the Nakamura et al. references, be withdrawn.

**d. Claims 79-81 and 83-87 are not anticipated by U.S. Patent No. 5676005 (Balliett) under 35 USC §102(b)**

The Balliett reference is directed to methods of drawing wire using a lubricant comprising perfluorocarbon compounds, including aliphatic perfluorocarbon compounds having the general formula  $C\sim F_{2\sim+2}$ , perfluoromorpholines having the general formula  $C\sim F_{2\pm 1}ON$ , perfluoroamines, highly fluorinated amines, and perfluoroethers. (Abstract). The Balliett reference describes the fluorine-containing compounds as having utility as a lubricant in wire-drawing processes. The Balliett reference does not disclose or suggest inclusion of these fluorine-containing compounds in wash liquor compositions.

The Balliett reference does not disclose a working fluid mixed with a washing additive, nor does the reference disclose a fragrance nor recite any specific compounds that can serve as a fragrance. The Balliett reference does not disclose a wash liquor composition as recited in independent claim 79.

Furthermore, the Balliett reference does not disclose a wash liquor composition further comprising at least one co-solvent selected from the group consisting of water, alcohol, ether, glycol, ester, ketone, and aldehyde, as recited in claim 80. In addition the reference does not disclose a liquid working fluid. The Balliett reference does not disclose specific chemical properties of any compounds with respect to surface tension, oil solvency, solubility in water, pH, or flash point as recited in claim 84.

Applicants respectfully request that the rejection of claims 79-81 and 83-87, as being anticipated by the Balliet reference, be withdrawn.

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### **Claim Rejections Under 35 USC § 103**

**III. Claims 79-81 and 83-87 are not obvious under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of Smith, et al. (US5,238,587).**

Claims 79-81 and 83-87 stand rejected under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of Smith, et al. (US5,238,587).

As acknowledged by the USPTO, The Flynn et al. reference discloses a cleaning composition which does not disclose a washing additive having a fragrance as set forth in the pending patent application. The Smith et al. references discloses a porous substrate sheet article impregnated with a gelled liquid cleaning composition and used in a dryer. The cleaning composition has no working fluid and has a cleaning composition which is aqueous and includes a perfume.

Applicants submit that there are no past or present teachings which disclose non-aqueous wash liquors containing a washing additive which include a perfume. As per the Declaration of Mr. Tremitchell Wright, the non-aqueous wash liquors do not include perfume, as evidenced, for example, by the Login et al. patents (U.S. Patent Nos. 5,093,031 and 5,294,644) of record herein. Given the long-standing, historical practices of the dry-cleaning industry, one of ordinary skill in the art would not be motivated to include perfume in a wash additive of a non-aqueous wash liquor composition as set forth by Applicants in the pending patent application. Hindsight reconstruction without a showing evidence of motivation to combine is improper under 35 USC §103.

Applicant respectfully requests withdrawal of the rejection of claims 79-81 and 83-87 rejected under 35 USC §103, as being unpatentable over Flynn, et al. in view of Smith, et al.




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### Conclusion

In summary, Applicants believes that this Amendment is fully responsive to the Office Action mailed on April 6, 2006, and that Applicants' claims include features that patentably define over the cited references. It is respectfully requested that for the foregoing reasons discussed above and in view of the Declaration of Mr. Tremitchell Wright, that the claims 79-81 and 83-88 of this application be found in condition for allowance. If the Examiner believes there are any further matters, which need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0959, referencing our Docket No. U19984054-3 (094342.0038).

Respectfully submitted,

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